



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/798,017

03/11/2004

David Lisnoe McGuigan

2501371-991100

8805

26379 7590 12/07/2007
DLA PIPER US LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

EXAMINER

SHRESTHA, BIJENDRA K

ART UNIT

PAPER NUMBER

3691

MAIL DATE

DELIVERY MODE

12/07/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/798,017	Applicant(s) MCGUIGAN ET AL.	
	Examiner Bijendra K. Shrestha	Art Unit 3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Acknowledgement is made of applicant's claim for priority to Provisional Application 60/454,919 filed on 03/14/2003 under 35 U.S.C. 119(e).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 1-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Notani, U.S. Patent No. 7,269,550 (reference A in attached PTO-892).
4. As per claim 1, 12 and 23, Notani teaches a computer system for analyzing agreements between a first party and a second party (see Figs. 1, 2A /2B and 6B; where first party is a buyer and second party is a seller), the system comprising:

an engine adapted to receive input data describing commitments and past performance between the first and second party (see Fig 4, column 10, lines 30-67; Fig. 6A; Figs. 2A and 2B, column 6, lines 14-30), and to calculate liability of the first and second party relative to each other based on the data (see Fig. 4, Penalties for Violation (524); column 11, lines 13-23).

5. As per claim 2, 13 and 24, teaches the computer system wherein
the input data includes contractual terms between the first and second party (see Fig. 4).
6. As per claim 3, 14 and 25, Notani teaches the computer system wherein
the input data includes forecasted demand from the first party (see Fig. 4; Lower Quantity Limit (526) and Upper Quantity Limit (528)).
7. As per claim 4, 15 and 26, Notani teaches the computer system wherein
the input data includes actual demand from the first party (see Fig. 5B, steps 665 and 670).
8. As per claim 5, 16 and 27, Notani teaches the computer system wherein
the input data includes actual investment from the second party (see column 9, lines 46-49; where seller makes investment to provide goods or services ordered by the buyer).
9. As per claim 6, 17 and 28, Notani teaches the computer system wherein
the liability includes an investment required by the second party to meet the forecasted demand (see column 9, lines 40-49).
10. As per claim 7, 18 and 29, Notani teaches the computer system wherein
the liability includes reimbursement to the second party by the first party for over investment (see Fig. 4, Penalties for Violation (524); column 9, lines 48-49; column 11, lines 13-20).
11. As per claim 8, 19 and 30, Notani teaches the computer system wherein

the liability includes a penalty from the second party to the first party for under investment (see Fig. 4, Penalties for Violation (524); column 11, lines 13-23).

12. As per claim 9, 20 and 31, Notani teaches the computer system wherein the commitments comprise formal contractual commitments (see Fig. 4).

13. As per claim 10, 21 and 32, Notani teaches the computer system wherein the commitments arise from an informal agreement (see Fig. 4; the examiner notes that commitment can be obtained from an informal agreement with existing customers and suppliers).

14. As per claim 11, 22 and 33, Notani teaches the computer system comprising:
a good faith calculation engine that is adapted to receive data regarding supply of the second party and demand of the first party and to assess the supply as valid or invalid based upon the demand (see Fig. 2A and 2B, Tracking Module, 110 and 210); Fig. 5B; steps 675 and 698; column 12, lines 43-55).

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosures. Applicant is required under 37 CFR 1.111(c) to consider references fully when responding to this action.

The following are pertinent to current invention, though not relied upon:

Harper (U.S. Pub No. 2003/0023466) teaches decision support system and method related to supplying and purchasing electric power.

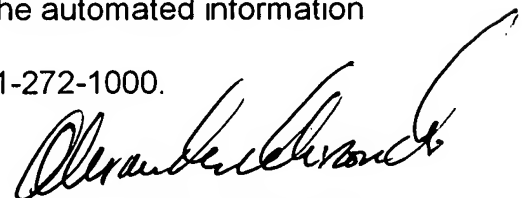
Moslars (U.S. Patent No. 5,991,732) teaches strategic-tactical logistic system related manufacturing and supply system.

Walker et al (U.S. Patent No. 5,897,620) teach method and apparatus for the sale of airline-specified flight ticket.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bijendra K. Shrestha whose telephone number is (571) 270-1374. The examiner can normally be reached on 7:00AM-4:30PM (Monday-Friday); 2nd Friday OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



ALEXANDER KALINOWSKI
SUPERVISORY PATENT EXAMINER